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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,490	11/19/2003	Marc-Andre Seguin	86493-2	4512

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EXAMINER

BLOUNT, ERIC

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. ☒

10/715,490

Applicant(s)

SEGUIN ET AL.

Examiner

Eric M. Blount

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-19, 22, 23 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-19, 23 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 22 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-19, 23, 25, and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al [U.S. Patent No. 6,696,977 B2] in view of Massey [U.S. Patent No. 5,097,790] and in further view of McCain et al [U.S. Patent No. 6,119,399].

As for **claims 1 and 17**, Thompson discloses a traffic-signaling device suitable for redirecting oncoming traffic (column 1, lines 8-12). The traffic signaling device comprising a moveable member (26, 28, 30, and 32) suitable for attachment to a support, said moveable member being operative to move between a first position and a second position wherein when the moveable member is in the second position the traffic signaling device is operative to redirect oncoming traffic (column 2, lines 7-20). It is obvious that the moveable member must be attached to a support. When a motorist approaches the moveable member, the motorist will notice the moveable member in the second position and thus be redirected to an alternative route or lane of traffic.

Thompson does not specifically disclose that the moveable member is formed of at least two substantially identical modular components or a solar powered drive system.

In an analogous art, Massey discloses a traffic-signaling device for redirecting traffic, which comprises a moveable member formed of at least two substantially identical modular members (column 4, lines 10-21). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the moveable member taught by Thompson to include the at least two substantially modular identical components taught by Massey because the modification would result in a moveable member that could be manufactured at a reduced cost. Massey does not disclose a solar powered drive system.

McCain et al teach a drive system for causing a moveable member to move between a first and second position (column 1, lines 52-67). The traffic controlling system can be solar-powered (column 3, lines 3-12). McCain teaches that a solar panel can be wired to a battery for providing power to the system. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the traffic signaling device of Thompson to include the solar powering means taught by McCain because the modification would result in a more power efficient traffic signaling device. The Thompson invention would be able to take advantage of the sun for power, thus reducing the cost of providing alternative sources of power to the device. Further, it was well known in the art at the time of the invention by the applicant to provide power to outdoor systems using solar power. Providing solar power to an outdoor system would have been an obvious modification.

Regarding **claims 2 and 12**, Thompson discloses that the drive system includes an electric motor (column 3, lines 50-55). McCain discloses the solar-powered drive system may include an electric battery and an electric battery (column 3, lines 3-12).

As for **claims 3 and 13**, McCain discloses that an electric battery is charged by one or more solar cells (column 3, lines 8-12).

Regarding **claims 4-6 and 14-16**, neither of the references specifically disclose that that the moveable member is parallel to traffic when in a first position and perpendicular when in a second position. However, it is obvious and was well known for traffic control gates to have this arrangement. These limitations can be viewed as a matter of design choice. Please see the official action mailed May 20, 2005 for an example of this type of arrangement (Burress). Thompson, Massey, and McCain are all designed to be extended into a roadway and inform motorist that a section of the roadway is closed.

Regarding **claims 8 and 18**, Massey discloses that the moveable member includes a first end and a second end, the first end attached to a support and the second end including at least one of an image and text thereon for providing information to oncoming traffic (Figure 1). It would have been obvious to one of ordinary skill in the art to modify the inventions of Thompson and McCain to include the images or text taught by Massey because the modification would result in a moveable arm that was more effective in providing information to approaching motorist.

As for **claim 9**, Thompson and Massey both disclose that a moveable member may be controlled remotely (Thompson column 2, lines 14-20; Massey column 9, lines

35-42). In order for the member to move into the proper position, it must be controlled by the drive system. If the drive system is solar powered, it is obvious that the drive system is controlled (whether directly or indirectly) by a remote control.

As for **claims 10 and 19**, Massey discloses that the moveable member may be made from metal, aluminum, or steel (column 4, lines 31-31).

As for **claims 11, 23, 25, and 27**, Thompson, Massey, and McCain reasonably appear to describe or suggest all of the limitations of the claim. Thompson discloses a traffic-signaling system comprising a plurality of traffic signaling devices (see Figure 1). Both Thompson and Massey teach remotely controlled devices. The receiving means of each invention reasonably appear to meet the limitation of a control system. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that if the drive system is solar-powered, the other components, including the control system, could take advantage of the solar-power. In each reference, there must be a receiving means for receiving a remote signal and allowing the activation of the drive system. See the discussion of the claims above for a further explanation of how the aforementioned references meet each claim limitation.

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al in view of Massey, in view of McCain et al, as applied to the claims above, and further in view of Inubushi [U.S. Patent No. 5,370,201].

Regarding **claim 26**, neither Thompson, Massey, nor McCain disclose a traffic-signaling device wherein a command signal is issued from a cellular telephone.

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Inubushi is used to show that it was known in the art at the time of the invention by the applicant to use cellular telephones to send commands signals for controlling a remotely located device (columns 1 line 62-column 2, line 18). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the teachings of Thompson, Massey, and McCain to include the remote control means taught by Inubushi because the modification would result in a system capable of being controlled by an operator even if the operator was not at an operator station.

Allowable Subject Matter

4. Claims **22 and 28** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims **29 and 30** are allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or fairly suggest a traffic-signaling device or system wherein a moveable member is controlled by a drive system to provide information to oncoming traffic and wherein the drive system is remotely controlled. The traffic-signaling device or devices is capable of communicating over a wireless transmission link with at least one other traffic-signaling device. These along with other limitations set forth, render these claims allowable over the prior art of record.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

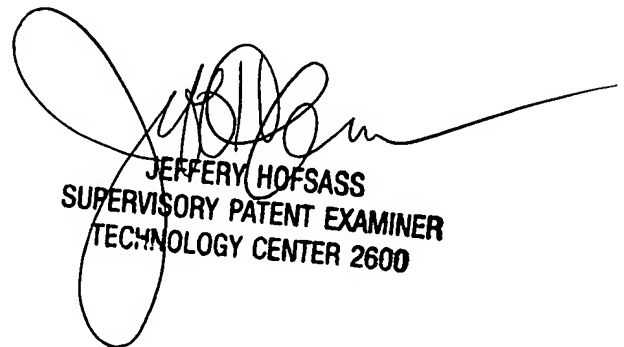
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric M. Blount
Examiner
Art Unit 2636



JEFFERY HOF SASS
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